IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

WEDNESDAY THE FOURTH DAY OF FEBRUARY TWO THOUSAND AND FOUR

: PRESENT :

THE HON'BLE **MR. DEVINDER GUPTA, CHIEF JUSTICE**

AND

THE HON'BLE MS.JUSTICE: **G.ROHINI**

WRIT APPEAL No. 103 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order in WP.No.5683 of 2003 dated 10-04-2003 on the file of the High Court).

Between:

Muddabhaktuni Subba Rao.

Appellant/Petitioner

AND

1. The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi.
2. The Deputy Secretary to Government of India, Ministry of Home Affairs, (F.F.wing), Lok Nayak Bhavan, New Delhi.
3. The Secretary to Government of A.P., Revenue Department (F.F.wing), Hyderabad.

Respondents

The Appeal coming on for hearing upon perusing the petition and Grounds filed herein and upon hearing the arguments of Mr. B.D.Raju, Advocate for the Appellant and of Mr. T.Suryakaran Reddy –S.C. for Central Govt. on behalf of the Respondents 1 & 2 and of G.P. for Revenue, on behalf of the Respondent No.3.

The Court made the following **ORDER:**

" Appellant's Writ petition has been dismissed by the learned Single Judge by the impugned order, dated. 10-4-2003, which is under challenge in this writ appeal.

In the writ petition, appellant sought direction against the respondents for consideration of his case for sanction of Central Government Pension on the ground that the State Government had already recommended his case on 28-1-1988. Appellant had submitted application for sanction of Central Government pension under the 'Swatantra Sainik Samman Pension Scheme, 1980'. The said application was submitted to the State Government, which was expected to forward the same to the Central Government along with its recommendation. By Memo No. 5439/FF/A4/87, Revenue (FF) Department, dated. 28-1-1988, the State Government had informed the appellant that his application for grant of Central Government Pension has been sent to Government of India in the reference cited in that letter. Appellant claims that when no action was taken in the matter, a representation, dated. 21-12-1998, was sent by him to the Central Government to take appropriate decision for grant of Central Government Pension since his case has already been recommended by the State Government for grant of Central Government pension by its Memo dated. 28-1-1988. Despite the said representation since no action was taken Writ Petition No. 24398 of 1999 was filed by the appellant in which, on 25-11-1999, direction was issued to the respondents to consider

the case of the appellant as recommended by the State Government and pass appropriate orders thereon. It is stated that Government of India, Ministry of Home Affairs/Grih Mantralaya, through their letter No.52/CC/389/99-FF(Lit.II)SZ, dated. 8-2-2000, informed the appellant that it has not been found possible to accept appellant's claim for grant of Central Government Pension and a reference therein was made to the letter, dated. 28-1-1988, of the State Government that his case had been recommended for 'rejection' of pension. In response thereto, appellant appears to have sent a representation on 10-3-2000 to

the Central Government and when no action was taken thereon, on 22-6-2002, appellant got served a legal notice on the Central Government and in response thereto, on 18-7-2002, a copy of the communication of Government India, dated. 8-2-2000, was sent to the appellant addressed by the Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi, to the State Government with reference to State Government's Letter No. 5439/FF/A4/87, dated. 28-1-1988, on the subject for information and necessary action at their end. To this letter, appellant sent another communication addressed to the Central Government on 27-8-2002 stating that since he was informed by the State Government that his case has been sent to Government of India and there has been no rejection by he State Government, therefore, his case be considered for grant of Central Government pension. As no action was taken thereon, present Writ Petition No. 5683 of 2003 was filed which was dismissed by the order impugned in this writ appeal stating that once case was rejected earlier fresh representation was submitted thereafter and its rejection will not give fresh cause action for the appellant. As a matter of fact, appellant was never informed by the State Government that his case has been sent to the Government of India with 'rejection recommendation'. Rather, by communication dated. 28-1-1988, the State Government had informed the appellant that his case for grant of Central Government pension has been sent to the Government of India. Even literally, the interpretation given to the communication would suggest that it was a case for grant of pension and not for rejection of pension. The letter, dated 8-2-2000, would also suggest that the State Government, on its own, appears to have made enquiry and in paragraph-7 thereof there is some reference to the enquiry for which the appellant was not informed. It also reefers to letter, dated.28-1-1988, of the State Government stating that the State Government has not recommenced the case of appellant for grant of pension. Prima facie, this is not in consonance with State Government's Memo No.5439/FF/A4/87, dated. 28-1-1988. The report of enquiry that was conducted either by the Central Government or the State Government, which resulted in rejection of appellant's claim, was not produced nor was it made part of the Central Government's letter, dated. 8-2-2000. Accordingly, we direct the State Government as well as the Central Government to produce the relevant enquiry report and the alleged rejection recommendation by the State

Government of the case of the appellant. Same will be produced with affidavit within six weeks from today.

List after six weeks."

SD/- I.V.RAMA RAJU

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi.
2. The Deputy Secretary to Government of India, Ministry of Home Affairs, (F.F.wing), Lok Nayak Bhavan, New Delhi.
3. The Secretary to Government of A.P., Revenue Department (F.F.wing), Hyderabad. (1 to 3 by RPAD)
4. Two CCs to G.P. for Revenue, High Court of A.P. Hyderabad. (**By Spl. Messenger**)
5. Mr. T.Suryakaran Reddy – S.C. for Central Govt., High Court of A.P. Hyderabad. (**By Spl. Messenger**)
6. Two spare copies.

SAH